

REMARKS/ARGUMENTS

After entry of this paper, claims 49-50 are pending. Claim 51 is cancelled as being drawn to non-elected subject matter. Applicants reserve the right to pursue all non-elected subject matter in a divisional application.

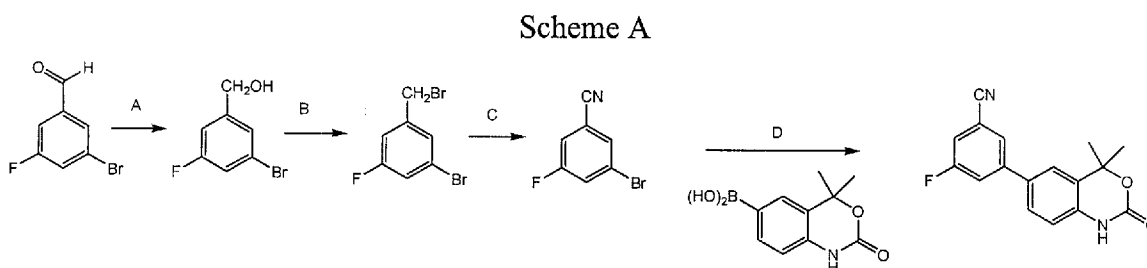
35 USC § 112, First Paragraph Rejection

Claims 49-50 are rejected under this section for the specification assertedly lacking a description of the preparation of 3-(4,4-Dimethyl-2-oxo-1,4-dihydro-2H-benzo[d][1,3]oxazin-6-yl)-5-fluorophenylacetonitrile.

The Examiner specifically asserted that there is no matter of making the claimed compound from the disclosure of Example 133.

Applicants respectfully request reconsideration and withdrawal of this rejection for the following reasons.

As the Examiner noted, Example 133 provides a description of the preparation of 3-(4,4-Dimethyl-2-oxo-1,4-dihydro-2H-benzo[d][1,3]oxazin-6-yl)-5-fluorophenylacetonitrile (the title compound). Example 133 is summarized pictorially in Scheme A shown below.

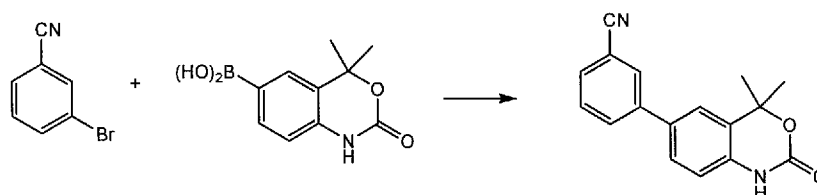


Example 133 provides a detailed description for the preparation of the three (3) intermediate compounds (steps A, B, and C). The title compound is then prepared via a coupling reaction, which would readily be recognized and performed by one skilled in the art. This coupling reaction is provided as step D in Scheme A below. Since such coupling reactions are well known and practiced in the art, one of skill in the art would readily understand the conditions necessary to perform the coupling. Further, one of skill

in the art would even recognize that the coupling must proceed in the presence of a catalyst, that the conditions must be inert, and how to isolate the product without reading the instant specification. In fact, this step is so routine that one of skill in the art would not even require a description in the specification of how to proceed with the coupling. However, in an effort to be complete, Applicants indicated that "[t]he title compound was prepared according to the procedure B from 3-bromo-5-fluorophenylacetonitrile and (1,4-dihydro-4,4-dimethyl-2-oxo-2H-3,1-benzoxazin-6-yl)boronic acid".

Procedure B is outlined in Example 12 and follows the reaction set forth in Scheme B. As the Examiner will note, the coupling in Example 12 is substantially identical to the coupling in Example 133. The only difference between these procedures is the presence of a fluorine atom on the benzonitrile reactant in Example 133. However, one of skill in the art would understand that the coupling of the benzonitrile would proceed through the bromine atom on the benzonitrile and not the fluorine atom.

Scheme B




In view thereof, Applicants maintain that the specification provides more than an adequate support for the preparation of the compounds of the pending claims and particularly 3-(4,4-Dimethyl-2-oxo-1,4-dihydro-2H-benzo[d][1,3]oxazin-6-yl)-5-fluorophenylacetonitrile. Reconsideration of this rejection is requested.

The Director is hereby authorized to charge any deficiency in any fees due with the filing of this paper or during the pendency of this application, or credit any overpayment in any fees to our Deposit Account No. 08-3040.

Respectfully submitted,

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